

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 1756 – SB 1828

February 27, 2022

SUMMARY OF BILL: Authorizes the issuance of a traffic citation in lieu of arrest for the offense of driving when a person's privilege to do so is cancelled, suspended, or revoked.

Enhances the penalties for a person convicted of driving while the person's privilege to do so has been cancelled, suspended, or revoked for committing aggravated vehicular assault or aggravated vehicular homicide.

FISCAL IMPACT:

Increase Local Revenue - Exceeds \$36,100/FY22-23 and Subsequent Years

Decrease Local Expenditures - \$3,066,500/FY22-23 and Subsequent Years

Assumptions:

- Pursuant to Tenn. Code Ann. § 55-50-504(a), the first offense for driving without the privilege to do so is a Class B misdemeanor; a second or subsequent offense is a Class A misdemeanor.
- Based on information from the Administrative Office of the Courts (AOC), the average number of annual convictions in state courts for such a Class B misdemeanor offense over the last three fiscal years is 842; the average number of annual convictions in state courts for such a Class A misdemeanor offense is 567.
- It is assumed that only 10 percent of offenses are convicted in state courts. Therefore, the average number of annual convictions statewide for such a Class B offense is 8,420 (842 x 10); and the average number of annual convictions statewide for such a Class A offense is 5,670 (567 x 10).
- It is assumed that an unknown percentage of these convictions involve persons who were previously convicted of vehicular assault, vehicular homicide, or driving under the influence, which carry enhanced penalties under current statute. This percentage is assumed to be not among those who may receive a citation in lieu of arrest. The percentage is assumed to be 15 percent.
- Therefore, for the purposes of calculating the impact of issuing citations in lieu of arrest the conviction totals are 7,157 (8,420 x 85%) Class B convictions, and 4,819 (5,670 x 85%) Class A convictions.

HB 1756 – SB 1828

- It is assumed that, on average, a person convicted of a Class B misdemeanor will spend a total of one day in a local jail and a person convicted of a Class A misdemeanor will spend a total of 15 days in a local jail.
- Based on cost estimates provided by local government entities throughout the state and reported bed capacity within such facilities, the weighted average cost per day to house an inmate in a local jail facility is \$60.69.
- Therefore, the average annual cost to local governments to house inmates convicted of first and second or subsequent offenses of driving without the privilege to do so is estimated to be \$4,821,335 $\{ \$60.69 \times [(7,157 \text{ Class B} \times 1 \text{ day}) + (4,819 \text{ Class A} \times 15 \text{ days})] \}$.
- The proposed legislation authorizes law enforcement officers to issue a traffic citation in lieu of an arrest for these offenses.
- For the purposes of this analysis, it is assumed that law enforcement officers will issue traffic citations in lieu of arrests for 100 percent of Class B offenses and that as a result, such Class B offenders will spend no days in local jails.
- Because Class A offenders include those that already have two or more convictions for the same offense, it is assumed that law enforcement officers may decide to arrest some such individuals.
- It is not known how many Class A offenders will be issued a citation and how many may be arrested. It is assumed most Class A offenders will be committing a second offense and will be issued a citation.
- It is further assumed that an estimated 40 percent of Class A offenders will be arrested and serve the expected sentence of 15 days in a local jail.
- Therefore, the annual cost to local governments to house inmates convicted of second or subsequent offenses of driving without the privilege to do so if the proposed legislation is enacted is estimated to be \$1,754,791 $[\$60.69 \times (4,819 \times 40\%) \times 15 \text{ days}]$.
- Therefore, the total decrease in incarceration expenditures to local governments related to authorizing citations in lieu of arrests for the first and second offense of driving without the privilege to do so is estimated to be \$3,066,544 $(\$4,821,335 - \$1,754,791)$.
- Pursuant to Tenn. Code Ann. § 55-10-207(e)(1), each court clerk is required to charge and collect a traffic citation fee of \$5.00. Of that \$5.00, \$1.00 is retained by the court clerks and the remaining \$4.00 is remitted to the appropriate law enforcement agency.
- It is assumed that 20 percent of persons would be considered indigent and would not be required to pay any fines and fees.
- The total increase in revenue to local governments in citation fees is estimated to be \$36,071 $[(7,157 \text{ Class B} + (4,819 \text{ Class A} \times 60\%) \times 20\%) \times \$5.00]$.
- The proposed legislation does not mandate a specific fine. However, it is assumed an unknown amount of revenue in fines would also be collected by local governments.
- Therefore, the total increase in revenue to local governments is estimated to exceed \$36,071 in FY22-23 and subsequent years.
- Pursuant to Tenn. Code Ann. § 55-50-504(a) -(b), committing the offense of driving without the privilege to do so when such privilege was forfeited due to a previous conviction for vehicular assault, vehicular homicide, or driving while intoxicated carries enhanced penalties.

- The proposed legislation adds the offenses of aggravated vehicular assault and aggravated vehicular homicide to the list of those which may trigger enhanced penalties if the offender is subsequently convicted of driving without the privilege to do so.
- It is assumed that persons previously convicted of aggravated vehicular assault and aggravated vehicular homicide are currently being assessed the enhanced penalties in these cases in the same manner and to the same degree as offenders of vehicular assault and vehicular homicide, and that the proposed legislation will not significantly impact current sentencing practices or incarceration rates in that regard; therefore, any fiscal impact related to such changes is estimated to be not significant.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink that reads "Krista Lee Carsner". The signature is written in a cursive, flowing style.

Krista Lee Carsner, Executive Director

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